

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

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June 17, 2005

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS**Adoption of Narcotic Treatment Program (NTP) Regulations
Sections 10056 and 10057, Title 9, California Code of Regulations****NTP LICENSING FEES****Notice of Rulemaking and Public Comment Period**

NOTICE IS HEREBY GIVEN that the California Department of Alcohol and Drug Programs proposes to adopt new NTP regulations Sections 10056 and 10057, Title 9, California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

Chapter 4, Division 4, Title 9, CCR, currently contains regulations for licensure of NTP programs, which provide replacement narcotic therapy to individuals, under medical supervision, to order to treat opiate addiction. This regulatory action amends Chapter 4 by adopting Sections 10056 and 10057, Chapter 4, Title 9, CCR.

Section 10056.

Section 10056 allows ADP to assess annual licensing fees for NTPs to cover the cost of licensing NTPs. The regulation:

- Establishes standards for computing and assessing annual license fees,
- Allows the ADP to increase licensing fees annually as needed to cover the cost of licensure; and
- Authorizes assessment of civil penalties for failure to pay annual licensing fees.

Because ADP has not increased licensing fees since 1994-95, licensing fees collected have not covered the Department's actual cost of licensing NTPs. Accordingly Section 10056 allows ADP to increase licensing fees to make up for this loss. To ease the burden on NTP providers, the cumulative amount of lost revenue has been



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prorated over the next three fiscal years, with one third of the cumulative total added to licensing fees for FY 2006-07, 2007-08, and 2008-09. Section 10056 includes computations showing how licensing fees will be increased, and how this prorated amount will be added to the annual licensing fee for FY 2006-07, 2007-08, and 2008-09.

Section 10057.

Section 10057 establishes standards for administrative review of licensing actions, including civil penalties assessed for failure to pay licensing fees. Section 10057 specifies how to request an administrative review of licensing actions, and provides for both an informal level of appeal and a formal administrative review, in order to provide due process.

AUTHORITY:

These regulations are being adopted pursuant to Sections 11755, 11835, and 11839.20 of the Health and Safety Code.

REFERENCE:

The statutory references for this regulatory action are Sections 11839.3, 11839.5, 11839.7, 11839.10, and 11839.12 of the Health and Safety Code, and Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

FISCAL IMPACT STATEMENTS:

The Department does not anticipate any cost associated with implementation of these regulations because the regulations do not expand the scope of the implementing statutes. Any costs would be associated with implementation of the statutes rather than with implementation of the regulations themselves.

Costs or Savings in Federal Funding to the State: No costs or savings are anticipated.

Costs or Savings to Any State Agency: None. Workload will be absorbed using existing resources.

Costs or Savings to Any Local Agency or School District: No costs or savings are anticipated.

Nondiscretionary Costs or Savings Imposed on Local Agencies: This regulatory action will not result in any nondiscretionary costs or savings to local agencies.

Local Mandate Determination: The Department has determined that this regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

Cost Impacts on Representative Private Persons or Businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Business: The Department does not anticipate any adverse economic impact on business because these regulations do not expand the scope of the implementing legislation.

The Department has made an initial determination that this regulatory action will not have a significant statewide adverse economic impact directly affecting businesses. This regulatory action will not affect the ability of California businesses to compete with businesses in other states. This regulatory action will not affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Effect on Small Businesses: The proposed regulatory action will affect small businesses because many NTP programs are small businesses as defined in Government Code Section 11342.610. The Department has determined that this regulatory action will result in no cost or savings to small businesses because the regulations do not expand the scope of the implementing statutes.

Effect on Housing Costs: This regulatory action will not affect housing costs in any way.

WRITTEN COMMENT PERIOD:

Any interested person or his authorized representative may submit written comments on the proposed regulatory action. **The written comment period closes at 5 p.m. on August 1, 2005.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period. Please send written comments to Mary Conway, Regulations Coordinator, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814. Comments may also be submitted by fax at (915) 323-5873 or e-mail at MCONWAY@ADP.STATE.CA.US.

SCOPE OF TESTIMONY:

Section 11346.8(c) of the Government Code prohibits the Department from making any changes to the text of a noticed regulation after the public hearing, unless the change was so sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed action. Therefore please make your comments specific to the regulation discussed in this notice. Please indicate the number of the section you would like changed, the specific change requested, and the reason why you would like the section changed. Since the Department cannot make changes to sections of regulation which were not mentioned in this public notice, during the public comment period the Department will not consider testimony regarding changes which are outside the scope of this notice.

If you wish to request the Department to amend, adopt, or repeal additional sections of regulation, the Department is required to consider those changes in a separate regulatory action.

PUBLIC HEARING:

The Department has not scheduled a public hearing on the proposed regulatory action. However, if any person wishes to submit oral comments, the Department will schedule a public hearing upon receipt of that person's written request. Such request must be received at the address shown above no later than 15 days prior to the close of the written comment period.

CONSIDERATION OF ALTERNATIVES:

Pursuant to Section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which this regulatory action was taken. The Department must also determine that no alternative would be as effective and less burdensome to affected private persons than the regulatory action taken. The Department will consider any alternatives presented during the public comment period.

ADDITIONAL CHANGES:

The Department may modify the proposed regulation in response to testimony received during the 45-day public comment period, so long as any additional changes made are sufficiently related to the proposed regulatory action and within the scope of this notice. The Department will make available to any interested persons, for at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation, the full text of any regulation which is changed or modified from the express terms to this regulatory action. The Department will mail a copy of the additional changes to any person who testified or submitted comments during the public hearing (if one is requested), who submitted written comments during the 45-day public comment period, or who requested copies of additional changes. Please call the Department's regulations coordinator at (916) 327-4742 if you wish to receive a copy of any additional changes and you do not plan to present comments regarding the proposed regulatory action.

AVAILABILITY OF TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS:

The Department has prepared and has available for review upon request the text of the proposed regulations discussed in this notice, written in plain English; an initial statement of reasons, explaining the necessity for each regulatory change; and all the information upon which the proposed regulations were based. To obtain a copy, please call Mary Conway at (916) 327-4742 or write to her at the address shown on the first page of this notice. If you received this public notice in the mail, the text of the proposed regulation and the initial statement of reasons were enclosed. The proposed

regulations and initial statement of reasons are also available on the Department's web site at <http://www.adp.ca.gov> .

PERSON TO CONTACT FOR ADDITIONAL INFORMATION:

The Department's contact for this regulation package is Mary Conway, the Department's Regulations Coordinator, at (916) 327-4742. Virginia Clark, Manager of the Narcotic Treatment Program Licensing Branch, is the back up contact. Questions regarding the policy contained in the proposed regulatory action should be directed to Virginia Clark at (916) 327-3726.

FINAL STATEMENT OF REASONS:

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, please call Mary Conway at (916) 327-4742. The final statement of reasons will also be posted on the Department's web site at <http://www.adp.ca.gov>.